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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,669	11/10/2003	Satoshi Mizutani	20050/0200480-US0	4672
7278	7590	04/15/2005	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			FOSTER, JIMMY G	
			ART UNIT	PAPER NUMBER
			3728	
DATE MAILED: 04/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,669

Applicant(s)

MIZUTANI ET AL.

Examiner

Jimmy G Foster

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1) Claim 19 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 is indefinite as depending from a cancelled claim, making it unclear what is being covered by claim 19.

2) The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) Claims 1, 2 and 4-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al (6,131,736) in view of published Japanese patent application document 2000-51265 to Kao Corp.

In the reference of Farris et al there is provided a wrapping body/container/package 40/50 that is wrapped about an interlabial pad 20. The package may be folded from one sheet or made from a pair of sheets whose ends are overlapped and whose interior surfaces face each other (see Figs. 4, 6A, 6B; abstract).

The wrapping container is permanently sealed at seal 60 on the ends/overlapping parts. In addition, there is provided a resealable seal at 36. In Figures 2, 6A and 6B, the package is larger in size than the pad and

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therefor is inherently capable of re-receiving the enlarged pad, once used (see col. 4, lines 46-59), whereupon the resealable seal 36 may be resealed. Therefore, the package has enough size to receive the pad in a developed state.

The seals 60 provide a pocket portion between them. The opening of the pocket may be considered to have a dimension longer than the bottom of the pocket since the opening includes the opening members/unwrapping parts 55. In addition, parts 55 may be considered to be released when the seal 36 is unsealed. This would permit insertion of the used content as described in the reference.

The pad inherently has a finger opening (see Figs. 1, 3, 5, 7). The opening is between the sides 24A and 24B. Grasping of the grasping portion 28 inherently requires at least one finger to enter partially the location between the sides 24A and 24B.

See the discussion of the reference regarding the permanent seal (col. 8, lines 31-51). Although the seal 60 is said to be permanent, the reference indicates that the term "permanent" means *un-resealable*. Moreover, the reference indicates that suitable methods of frangibly sealing the edges of a package are known (lines 46-51), which methods are incorporated into the reference. Accordingly, the reference sufficiently discloses that the seal 60, although un-resealable, may be made frangible; that is, the seal may be breakable (the definition of "frangible"). This means that the package may be inherently opened into a flat form. Therefore, the wrapping container is inherently capable of unwrapping into planar form and being used as a waste discarding sheet.

Alternatively, the reference, from the description, sufficiently teaches/discloses that the seal 60 may be made frangible in the manner of

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Swanson 4,556,146 (identified by the ref, which is suitable for disposal of a used absorbent article), that it would have been obvious in view of this teaching to have made the container of Farris et al (which is also for holding the used article) with frangible seals and therefore made the container unwrappable into planar form.

Although the reference of Farris et al does not disclose making the inside surface of the wrapper with protrusions, the reference of Kao Corp suggests that the material of a package for personal absorbent articles may be provided with embossing, which will provide fine protrusions on the outside surface of the material, but will also provide even finer protrusions on the inner surface of a face of the package (see translation provided by Applicant, page 5, paragraph [0011]). The average surface roughness on the inside surface will be 0-3 micrometers and will be defined by a small embossing of granularity (see lines 5-6 of the paragraph). The embossing will provide enhanced friction and prevent individual packages from "slipping with each other" in an outer package (see abstract). Accordingly, it would have been obvious in view of this teaching of Kao Corp. for preventing packages from slipping with each other, to have made wrapping container of Farris et al with embossing and therefore with an outside surface having fine protrusions and an inside surface having even finer protrusions.

With respect to the claimed limitation, "wherein said superposing wrapping sheets have fine protrusions on inner surfaces of the wrapping sheets to space away from each other", this limitation would be met by providing the embossing on the package of Farris et al in view of Kao Corp. since the finer protrusions on the interior surface of the sheets of the wrapper of Farris et al, as modified by Kao Corp. will face each other and therefore provide such a spacing.

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4) Claims 1, 2, 4, 5, 7-10, 12 and 14-17 are finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Leeker (H1363) in view of published Japanese patent application document 2000-51265 to Kao Corp. In the reference of Leeker there is provided an elongated wrapping container/package body 50, being made from a wrapping 52 and including frangible seals 72,72', a resealable sealing means 60. The wrapping container is openable to a flat sheet (Figs. 5,6) but is also openable into a pocket portion and non-pocket portion. The device is for folded absorbent articles (Fig. 3), including interlabial pads (col. 3, lines 23-49, particularly lines 42-45). The unwrapped package will have a size sufficient to receive a used pad (see Fig. 6).

Regarding, the limitation which now calls for the wrapping container to be made of a series of superposed sheets, this is met by the description at column 10, lines 39-42 which discloses that the wrapper may be made of a lamination of one or more sheets of material.

Although the reference of Leeker does not disclose making the inside surface of the wrapper with protrusions, the reference of Kao Corp suggests that the material of a package for personal absorbent articles may be provided with embossing, which will provide fine protrusions on the outside surface of the material, but will also provide even finer protrusions on the inner surface of a face of the package (see translation provided by Applicant, page 5, paragraph [0011]). The average surface roughness on the inside surface will be 0-3 micrometers and will be defined by a small embossing of granularity (see lines 5-6 of the paragraph). The embossing will provide enhanced friction and prevent individual packages from "slipping

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with each other" in an outer package (see abstract). Accordingly, it would have been obvious in view of this teaching of Kao Corp. for preventing packages from slipping with each other, to have made the wrapper 52,50 with embossing and therefore with an outside surface having fine protrusions and an inside surface having even finer protrusions.

With respect to the claimed limitation, "wherein said superposing wrapping sheets have fine protrusions on inner surfaces of the wrapping sheets to space away from each other", this limitation could be broad enough to require that the protrusions be spaced, or that the inner surface of the first wrapping sheet is spaced from the inner surface of the second wrapping sheet or that the inner surfaces of the combination of wrapping sheets are spaced from each other. As applied from Kao Corp. above to Leeker above, any of the interpretations of the claimed limitation would be met. The granularity of the inner surface embossment will define protrusions spaced on the surface with respect to each other. Additionally, the inner directed surface of the outer sheet of the lamination of Leeker will be spaced from the inner directed inner surface of the other sheet of the lamination. Additionally, the interior surfaces of the combination of sheets will be spaced from each other in the folded container by the granularity on the inner surface. Accordingly, Applicant's limitation, insofar as claimed, does not distinguish patentably over Leeker in view of Kao. Corp.

5) Claims 1, 2 and 4-19 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al (6,131,736) as applied to 1, 2 and 4-19, and further in view of Lee et al (WO 99/23984). The reference of Lee et al concerns any personal absorbent articles (pg. 1, lines 13-14), even though interlabial pads are not mentioned *per se*. More specifically, the reference

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of Lee et al (pg. 2, lines 31-32) teaches that the wrapping container for a personal absorbent article should be made with a sufficient size, which is substantially larger than the absorbent article, so that the container will be suitable for receiving a used article. Accordingly, it would have been obvious in view of this teaching to have further made the wrapping container of Farris et al with sufficient size to receive, for disposal, the used interlabial pad of Farris et al.

6) Claims 11, 18 and 19 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over Farris et al (6,131,736) in view of Kao Corp (JP 2000-51265) as applied to claims 11, 18 or 19 above, and further in view of Wierlacher (WO 99/01096). The reference of Wierlacher, at the abstract; page 3, lines 28-30; page 4, lines 16-19; and page 20, lines 26-31, suggests that an interlabial pad may be made with an opening on the rear side for receiving the finger of the user for holding and applying the pad. Accordingly, it would have been obvious in view of Wierlacher to have provided the interlabial pad of Farris et al with a finger opening for holding and applying the pad for use.

7) Claim 11, 18 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Leeker (H1363) in view of Kao Corp (JP 2000-51265) to as applied to claims 1 or 2 above, and further in view of Wierlacher (WO 99/01096). The reference of Wierlacher, at the abstract; page 3, lines 28-30; page 4, lines 16-19; and page 20, lines 26-31, suggests that an interlabial pad may be made with an opening on the rear side for receiving

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the finger of the user for holding and applying the pad. Accordingly, it would have been obvious in view of Wierlacher to have provided the interlabial pad of Leeker with a finger opening for holding and applying the pad for use.

8) Applicant's arguments filed 01 February 2005 have been fully considered but they are not deemed to be persuasive. The argument that Kao Corp. does not teach protrusions on the inner surface of a package for personal absorbent articles is not accurate since the paragraph [0011] of the reference appears to teach such protrusions by teaching a small roughness on the inner surface of such a package, wherein the roughness will include a small embossing of granularity.

9) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

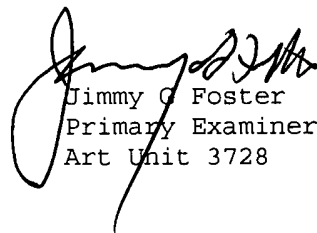
A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy G Foster whose telephone number is (571) 272-4554. The examiner can normally be reached on Mon-Fri, 8:45 am - 5:15 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Jimmy C. Foster
Primary Examiner
Art Unit 3728

JGF
14 April 2005